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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,853	05/09/2005	Michael Roth	PP/1-22658/A/CGM 516/PCT	6347
324	7590	10/16/2006	EXAMINER	
CIBA SPECIALTY CHEMICALS CORPORATION PATENT DEPARTMENT 540 WHITE PLAINS RD P O BOX 2005 TARRYTOWN, NY 10591-9005			SANDERS, KRIELLION ANTIONETTE	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,853

Applicant(s)

ROTH ET AL.

Examiner

Kriellion A. Sanders

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,12-17,20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,12-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7, 12-17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/00450 in view of Galbo et al, US Patent No. 5096950 and WO 01/90113.

The rejection is repeated for reasons of record in the previous office action.

3. Each of the references discloses that it is known in the art to produce thermoplastic compositions comprising hydroxylamine esters having the formulae set forth in applicant's claims and flame retardant additives. The weight percentages of the additive components within the range of 0.1 to 15 weight percent of hydroxyl amine and 0.1-30 wt% for flame retardant are also disclosed.

WO 99/00450 discloses among many suitable flame retardants, tris[3-bromo-2,2-(bromomethyl)propyl]phosphate. For the most pertinent disclosure, see page 55, figure N; page 22, paragraph 6; page 26, paragraph 5; page 27, paragraphs 2-4, page 28, paragraph 4 through page 29, paragraph 1 and Example 18

Galbo et al, US Patent No. 5096950 discloses that suitable flame retardants include a broad range of chemistries including phosphate esters and halogenated compounds. Also

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peroxides are employed in the invention for the purpose of oxidizing specific hindered amines to produce the patented hydroxylamines. See col. 20, lines 33-39.

Also see col. 1, lines 48-53, col. 15, lines 17-30 and 52-59, col. 18, line 26, col. 19, lines 67-68, col. 20, lines 33-39, claims 1, 2 and 20-30.

WO 01/90113 discloses that conventional additives such as flame retardants may be combined with the hindered amine stabilizers to produce flame retardant polymeric compositions. See page 49, paragraph 3.

4. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the hydroxylamine esters of any of WO 99/00450, Galbo et al, US Patent No. 5096950 or WO 01/90113 with the specific flame retardants of WO 99/00450 to produce flame-retarded polymeric compositions since each of the references disclose that the hydroxyl amines may be combined with flame retardant additives.

Response to Arguments

Applicant's arguments filed 8/04/06 have been fully considered but they are not persuasive. Applicant's comparative data in the specification indicates unexpected results in flame retardancy for a polypropylene composition comprising a cyclic hydroxylamine ester of formula C as depicted in present claim 1 and decabromodiphenyl ether. However the comparative data does not support unexpected results for a polypropylene composition comprising a cyclic hydroxylamine ester of formula C as depicted in present claim 1 and tris[3-bromo-2,2,9-bromomethyl)propyl]phosphate.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 8:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kriellion A. Sanders
Primary Examiner
Art Unit 1714

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